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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,213	11/14/2001	Brenda F. Baker	RTS-0327	1275

7590 03/26/2004

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EXAMINER	
GIBBS, TERRA C	

ART UNIT	PAPER NUMBER
1635	

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	10/000,213	BAKER ET AL.	
	Examiner	Art Unit	
	Terra C. Gibbs	1635	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1, 2, 4-9, and 11-15*.

   Claim(s) withdrawn from consideration: *19 and 20*.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 2. NOTE: Applicant's proposed amendment recites targeting nucleobases 1599 to 1637 or within nucleotides 1710 to 1757 of a nucleic acid molecule encoding human vitamin D nuclear receptor (SEQ ID NO:3). These newly recited targeted regions have not been specifically recited before. Although the full length sequence of SEQ ID NO:3 has been searched, the individual regions recited within SEQ ID NO:3 have not been separately searched, because the search for antisense oligonucleotides targeted to the full length of SEQ ID NO:3 does not necessarily return a complete and exhaustive list of results for fragments or small regions of the full length sequence. Thus, Applicant's proposed amendment to the newly specified regions would necessarily require a new sequence search to be performed for antisense oligonucleotides against any particular smaller region of the overall sequence of SEQ ID NO:3. In summary, since said regions have not been recited in any claims examined heretofore, the newly proposed claims specifiying particular regions by nucleobase would require a new search.

Continuation of 3. Applicant's reply has overcome the following rejection(s): If entered, Applicant's reply would overcome the 35 U.S.C. 103 rejection against claims 1, 2, 4-9, and 11-15 as being unpatentable over Hmama et al. in view of Baracchini et al. and Fritz et al. However, if entered, Applicant's reply would not overcome the 35 U.S.C. 112, first paragraph rejection for scope enablement against claim 15. Claim 15 is drawn to a method of inhibiting the expression of vitamin D nuclear receptor in cells or tissues comprising contacting said cells or tissues with an oligonucleotide encoding human vitamin D nuclear receptor. The claims encompass a method of inhibiting the expression of vitamin D nuclear receptor in cells or tissues (in vivo), where the previous Office Action demonstrated the unpredictability of using antisense nucleic acids in vivo (see previous Office Action, filed December 15, 2003 at pages 2-5). It is noted that the claims, as amended, recite targeting different regions of a nucleic acid moleucle encoding human vitamin D nuclear receptor. The Examiner would like to inform the Applicant that if the amendment were entered, the claims would be subject to a restriction requirement between the two recited regions, due to the complex nature of the search and corresponding examination of more than one of the claimed regions.

Continuation of 5. does NOT place the application in condition for allowance because: The request addresses the claims as amended, however, the claims as amended have not been entered on the record.

Karen Lacourciere

KAREN A. LACOURCIERE, PH.D
PRIMARY EXAMINER

~~KAREN A. LACOURCIERE, PH.D~~
~~PRIMARY EXAMINER~~